

Arizona LGBT Non-Discrimination Ordinance Comparisons

Submitted for review to Scottsdale Human Relations Commission

August 10, 2020

Here is a brief overview of the major differences and similarities between the six Arizona municipality nondiscrimination ordinances:

1. SCOPE OF PROHIBITED DISCRIMINATION

All of the ordinances prohibit discrimination in employment, public accommodations and housing except Flagstaff's, which only covers employment and public accommodations.

2. PROTECTED CLASSES

- a. All ordinances cover race, color, religion, sex, national origin, disability, sexual orientation, and gender identity. **Phoenix and Flagstaff** also prohibit discrimination based on "gender expression."
- b. **Sedona and Phoenix** – Also prohibits discrimination based on marital status. With respect to housing only, Phoenix prohibits discrimination based on familial status (defined as being pregnant or living with a child who is under 18 and for whom you have custody or are in the process of obtaining custody). With respect to employment only, discrimination based on genetic information is prohibited.
- c. **Sedona and Tucson** – also covers ancestry, marital status and familial status for employment, public accommodations and housing.
- d. **Flagstaff** – also bars discrimination based on military Veteran's status for employment and public accommodations.
- e. **Sedona and Tempe** – also prohibits discrimination based on Veteran's status and familial status for employment, public accommodations and housing.
- f. **Winslow** – 2018 ordinance prohibits discrimination based on gender identity, sexual orientation, or familial status. It does list gender expression as a protected characteristic; however, the ordinance defines "gender identity" as the "gender related identity, appearance, or mannerisms or other gender related characteristics of an individual, regardless of the individual's designated sex at birth."

3. EMPLOYER COVERAGE

- a. **Phoenix** – Applies to employers with one or more employees.
- b. **Tucson** – Applies to employers with at least one but no more than 100 employees, except sexual orientation, gender identity, marital status and gender identity provisions apply to all employers.
- c. **Flagstaff** – Applies to employers with 15 or more employees.
- d. **Tempe** – Applies to employers with one or more employees.
- e. **Sedona** – Applies to employers with one or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.
- f. **Winslow** – Applies to employers with one or more employee for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

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4. CONTRACTORS

- a. **Flagstaff's and Tempe's ordinances do not cover contractors.**
- b. **Phoenix** – construction contractors who anticipate establishing a business relationship with the City for contracts of \$10,000 or more must adhere to a policy of nondiscrimination for race, color, religion, sex, national origin, age and disability. Contractors with more than 35 employees also must not discriminate based on sexual orientation or gender identity.

Suppliers of goods and services to the City and lessees of City real property for six months or more must adhere to a policy of nondiscrimination regarding race, color, religion, sex, national origin, age and disability. Suppliers and lessees with more than 35 employees also must not discriminate based on sexual orientation or gender identity.

- c. **Tucson** – all contractors with the City will not discriminate based on race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status, and/or marital status.
- d. **Sedona** – all city vendor or city contractors will not discriminate based on race, color, gender, gender identity, sexual orientation, religion, national origin, marital status, familial status, age, disability or veteran status
- e. **Winslow** – all city vendor or city contractors will not discriminate based on race, color, gender, gender identity, sexual orientation, religion, national origin, marital status, familial status, age, disability or veteran status

5. EXCLUSIONS

All ordinances exclude religious organizations with respect to the prohibitions concerning marital status, gender identity, or sexual orientation. It also excludes from coverage bona fide membership in clubs and social clubs.

6. COURT CASE – MOST RECENT RULING

On June 15, 2020, the Supreme Court of the United States decided *Bostock v. Clayton County, Georgia*, and held that an employer who fires an individual merely for being gay or transgender violates Title VII of the Civil Rights Act of 1964 which prohibits discrimination on the basis of sex. As such, any city ordinance prohibiting non-discrimination in employment based on sexual orientation or gender identity, may already be covered by federal civil rights laws for employers with 15 or more employees (the cut off for coverage under Title VII).